Secrt. II-27—45,000—19-10-39.

Home (1941) Department.

(1) Mis SERIES.

G.O. No. 3847

Dated 28 8 1941

[Despatch Abstract.]

Suits - South Kanara District - misappropriation of public funds by N.Venkat Rao, late head-clerk, District Munsif court, Mangalore - recovery of amount - filing of - sanctioned.

23702E
13/8/41

Subject.

Suits (South Kanara)- Misappropriation of public funds by the late head clerk, District Munsiff's Court, Mangalore- Recovery Filing of suit.

13 AUG. 1941
HOME DEPARTMENT

Dis. A.3031/41.

Madras. 11th August 1941.

From

S. Venkateswaran Esq., I.C.S.,
Secretary, Board of Revenue, Madras.

J.B. Brown Esq., C.I.E., I.C.S., Commr.of Land Revenue.

Read the following paper:-

Letter from M.Y. Subrahmanyan Esq., I.C.S., Collector of South Kanara, Ref. A.3- 2574-1941 dated the 3rd August 1941.

>2-8 infra

Submitted to the Government.

N. Ayyangar 12/8/41
for Secretary.

To the Secretary to Government, Home Dept. with enclosures.
Copy to the Collector of South Kanara.

J.E.G.11.8.

12.8.

Recd. 16.8.41.

Copy of letter from M.Y. Subrahmanyan Esq., I.C.S., Collector of South Kanara, Ref. A.3- 2574-1941 dated 3rd August 1941.

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Public servant- Venkat Rao, Sri. N.- Late head clerk, Dt. Munsif's Court, Mangalore- Misappropriation- Collection of the amount from the surety- Institution of suit- Sanction sought.

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In his reference Dis. No. 5935 dated 31st Octr.1940 the District Judge, South Kanara, stated that Sri. N. Venkat Rao, late head clerk District Munsif's court, Mangalore misappropriated a sum of Rs. 1293 Rs.1293-8-8 being Government monies received by him in his capacity as head clerk of that court, that one Sri. K. Bhoja Rao had executed a security bond in a sum of Rs. 250/ on behalf of the said Venkat Rao and th t in response to the notice issued to the surety to pay into the Court the sum of Rs. 250/- the surety had replied that it was not admitted that N. Venkat Rao had committed embezzlement or he (the surety) was liable under the terms of the bond to pay into Court any sum of money and the District Judge requested me to take such action as might be necessary to recover the monies. He also stated in reply to this office Ref. A.3- 7530 -1940 dated 16th Novr.1940 that departmental enquiry had been instituted against the individual at fault but that the result of the criminal proceedings which were pending then, was awaited for proceeding with the departmental enquiry. The Government Pleader, Mangalore who was consulted in the matter in this office Ref. A.3- 7530-1940 dated 5-12-40 stated that the bond could be enforced only by a suit by the Province of Madras as the plaintiff, that if the Dt. Judge was authorised by any G.O. to sign plaints in matters affecting his department it would be for him to instruct the institution of the suit, that the officer who signed the plaint must be able to subscribe to the necessary averment that Venkat Rao had been guilty of misappropriation and that it would be best to make both the principal and the surety as defendants. In this office D.Dis. 7530-1940 dated 23-12-40 the Dt. Judge was informed accordingly and also told that before instituting the suit, I should have material on which I could make the averment that the principal had been guilty of misappropriation and that I would be in a position to do so only if the departmental enquiry or the criminal trial established it or other sufficient material was placed before me. In reply

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to this, the Dt. Judge stated that so far as he was aware, he was not authorised by any Government order to sign plaints in matters affecting his department, He enclosed a copy of the Dt. Munsif's letter Dis. 587 dated 20-3-41 containing particulars of the several items of monies misappropriated by N. Venkat Rao and requested me to take steps for filing a suit against the principal and his surety. But as he had not furnished the information called for in my D.Dis. 7530/40 dated 23-12-40 he was asked to furnish it. In reply to this, he sent me his D.O. letter dated 12-5-41 stating that the claim against Venkat Rao was independent of the surety bond and had to be made, that when that claim was made, a claim could also be made against the surety, for the amount covered by the bond and that it would be a question of law whether on the facts relied upon he could be made liable for any part of the claim and requested me to take early steps to file a suit. Thereupon I requested the Government Pleader to prepare a draft plaint. The draft plaint prepared by the Government Pleader was got scrutinised by the District Judge and then recast by the Government Pleader as suggested by the Dt. Judge. The averments in para 5 of the draft plaint (enclosed) are borne out by the information contained in the copy of the letter of the Dt. Munsiff Dis. No. 587/41 dated 20-3-41 to the Dt. Judge. The plots which had been offered as security by the surety are free from encumbrances. I request that sanction may be accorded for the institution of the suit and that the draft plaint enclosed herewith may be approved.

The records mentioned below are enclosed for reference and return.

(1) Current file pages 1 to 48.

(2) D.Dis. 7530-1940.

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IN THE COURT OF THE DISTRICT MUNSIF OF MANGALORE.

Original Suit . No.. of 1941.

Between,

The Province of Madras .. .. Plaintiff

and

1. N.Venkat Rao)
) .. .. Defendants.
2.Kudpi Bhoja Rao)

Plaint under Order VII rule 1 Civil Procedure Code.

The abovenamed Plaintiff begs to state as follows:-

1.The Plaintiff is the Province of Madras.

II. Defendant 1. N.Venkat Rao is the son of N.Krishnayya aged about 33, Hindu, Brahmin, and till 16-9-1940 the Head Clerk of the Dt.Munsif's court, Mangalore. The last house where he was reported to be staying is House No.516 of Kadri village near Kadri Temple; his whereabouts are now unknown. An application for 'substituted service' is filed along with the plaint.

Defendant 2 is the son of K.Sankappayya, aged about 40, Hindu, Brahmin, Merchant, residing in Mangalore town. His address for service is the same.

III.1). Defendant 1 who was in the Ministerial service of Civil Courts was employed as the Head Clerk of this Court from 16-1-1940 to 16-9-1940.

2.On 31-3-1940, Defendant 2 executed a security bond binding himself as surety to the Government in the sum of Rs. 250/- on behalf of Defendant 1 appointed to thessaid office of Head clerk, and held himself, his heirs, and representatives responsible to the Government to that extent for any defalcation, embezzlement, or misappropriation of the money entrusted to the custody of the said Defendant 1 of which the latter may be found guilty or which may be proved to have taken place through his connivance or negligence. Defendant 2 also pledged to the Government as security for the same the immovable properties mentioned below.

3.On or about 30-9-1940 it was found that Defendant 1 had not entered in the Account Books of this Court Rs.8-4-0 which he had received during his tenure as Head Clerk, Defendant 1 was informed of the same, on which he paid up the amount and gave a statement in writing to the then District Munsif admitting that the amount had been recieved by him, but not remitted into the Treasury.

4.Meanwhile Defendant 1 had been discovered to have temporarily misappropriated Rs.230/- while he was performing the duties of a lower division clerk in the District Munsif's Court at Puttur. The District Munsif reduced him. The district Judge called upon Defendant 1 to show cause why he should not be dismissed from service. Defendant 1 failing to show cause within the time granted was dismissed from service on 5-10-1940.

5.Suspicions having been aroused, an inquiry was instituted, and the then District Munsif found that Defendant 1 was guilty of defalcation, embezzlement and misappropriation to the extent of Rs.1349-7-2 the particulars of which are given hereunder.

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-2-

a). Three self cheques had been drawn by the then District Munsiff, Cheque No.10562 of Book No.106 for Rs.8/- for Rs. 8/- on 8-7-1940 cheque No.10571 of same book for Rs.6/- on 12-7-1940 and cheque No.10643 of Book No.107 for Rs.3/- on 13-9-1940 on the Imperial Bank, Mangalore as against Chalan No.482/27-3-1936 in O.S.No.471/1924 to the credit of which a balance of Rs.2322-7-9 was lying in deposit in that Bank. These cheques on investigation were found to have been fraudulently written up by Defendant 1, the signature of the District Munsif obtained thereto and subsequently tampered with by Defendant 1 while they were in his custody Rs.8/- in the first cheque having been altered into Rs.80/- Rs.6/- in the second cheque having been altered into Rs.686/- and Rs.3/- in the third cheque having been altered into Rs.323/-. These three cheques with the altered figures were got cashed through the Court peons, the first on 9-7-1940 the second on 15-7-1940 the third on 14-9-1940, and the amounts of Rs.80/- Rs.686/- and Rs.323/- were received by Defendant 1 on the aforesaid dates.

b). On account of copying charges, defendant 1 received a sum of Rs.3/- on 20-6-1940 from the Advocate for the plaintiff in O.S.No.272 of 1939, another sum of Rs.5/- on 10-2-1940 from the vakil for the plaintiff, in O.S.No.115/1937, and another sum of Rs.2/- on 4-7-1940 from the Advocate for the petitioner in - R.I.A.No.616/1940 in O.S.No.28 of 1923.

(c) Defendant 1 also received as stamp duty and penalty, Rs.3/- on or about 29-3-1940 from the vakil for the Defendant in O.S.No.443/1939 and Rs.9-4-0 on or about 25-6-1940 from the Advocate for the plaintiff in O.S.212/1940.

(d) Defendant 1 also received Rs.182-4-8 from Amin K. - Anthappa of this Court on or about 15-4-1940 realized under an attachment warrant in S.E.P.No.447/1940, Rs.35-14-6 from the Post Office, Mangalore on or about 28-6-1940 in pursuance of two prohibitory orders issued in R.E.P.No.626/1938 and S.E.P.No. 480/1939, and Rs.20/- under two money orders from Puttur on - 2-3-1940 and 3-7-1940 being the attached salary of the Judgment Debtor in R.E.P.No.118/1937.

6. The receipt of none of the aforesaid amounts was entered in the registers of books of the court or accounted for. The amounts were misappropriated by defendant 1.

7. Ever since 4-10-1940, defendant 1 has been absconding - and the Police have been unalbe to trace him. In the circumstances set forth above defendant 1 is liable to make good to the plaintiff all the aforesaid amounts embezzled by him while in office as Head Clerk of this Court.

8. Defendant 2 the surety was notified of the misappropriation but has not yet paid up the amounts as per the terms of the bond. Defendant 2 is thus liable to make good to the plaintiff the sum of Rs.250/-, both personally and also by sale of the hypothecated properties.

9. The cause of action for the suit arose on or about - 4-10-1940, and subsequently within the jurisdiction of this Court when defendant 1 was found to have embezzled the various amounts mentioned above.

10. The palintiff values the suit at Rs.1349-[illegible] for the purpose of court fee and jurisdiction.

11.Plaintiff, therefore, prays for a decree and judgment:-

a.Directing defendant 1 to pay plaintiff the amount misappropriated by him, viz. Rs.1349-7-2

b.Directing defendant 2 personally and also by sale of the undermentioned property to pay plaintiff part of this amount for which he stood surety, viz Rs.250-0-0

c.Costs, interest and such other relief as this court might deem fit.....
Court fee Stamp of Rs.142-7-0 is paid.

South Kanara Collector's Office,
Mangalore, 3rd August 1941 For Collector.

A

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20/28/8

C.F. 16.

DRAFT FOR APPROVAL.

Home Department.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT :— Suits - S.Kanara Dt.- misappropriation of public funds by N.Venkat Rao, late head-clerk, D.M.C.Mangalore - recovery of amount - filing of - sanctioned.

READ AGAIN ....., dated ..... 19.....

" " ..... " ..... 19.....

READ *ALSO* :—

C No.23702 E From the Board of Rev. L.Dis.No A.3031/41 dated 11.8. 19 41.

" ..... " ..... " ..... " ..... 19.....

" ..... " ..... " ..... " ..... 19.....

Order ~~Resolution~~ Ms. No. 3847, dated 28.8 19 41

Sanction is accorded to the filing of a suit in the court of the Dt. Munsif of Mangalore against N.Venkat Rao, son of N.Krishnayya and Kudpi Bhoja Rao, son of K.Sankappayya for the recovery of the amount misappropriated by N.Venkat Rao in his capacity as the head clerk of the Dt. Munsif's Court, Mangalore.

2. The draft plaint submitted by the Collector of South Kanara is approved.

S.R.
16.8.41

Suit no. (illegible)

To
The Board of Rev. (With pp.4-7 cf. (keeping copy) and records returned)

Copy to the Collr. of S.Kanara (with ref. to his letter Ref.A.3-2574/41 d.3.8.41)

25484

From G.O. 23702.E II
21/8/41

ASST. SECRETARY TO GOVERNMENT
21 AUG 1941
FINANCE DEPARTMENT

Finance may see.

Fin.

Fin. (Accts)

Th. Petn. for re. Coll. S. Kama explains the case.

The draft amendment may be passed and the case need not be sent to Govt. Ho

Fin Ho 25.8.41 Addl 22841

Fin Ho

Home

ASSISTANT S. 25 AUG. 1941 HOME DEPARTMENT

24945

Home Dept.

A.S.

The draft may now be issued

27.8.41.

3958

Urgent

Home (E)

From Supt. Home Dept
To First Assistant,
Board of Rev.

Subj. (Suits - (S. Kanara) - Misappropriation of public funds by the late head clerk, D.M.E. Mangalore Recovery - filing of Ref: Letter from Bd of Rev. A. 208/41, D. 1/8/41.)

Please expedite the enclosures referred to in the letter cited above they have not yet been received in this office.

14/8/41.

Received 15/8.
P.C. to go

C/14/8